IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9471 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

NATHA LAKHA VADHER

Appearance:

1. Special Civil Application No. 9471 of 2003

MR ND GOHIL ASST. GOVT. PLEADER for Petitioner No. 1

MR JAYESH A DAVE for Respondent No. 1

MR ASIT M MEHTA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 19/08/2004

ORAL JUDGEMENT

1. The petitioner, Deputy Executive Engineer,

Irrigation Sub-Division, Morbi has challenged by way of this petition the judgment and award of the Labour Court, Rajkot in Ref [LCR] No. 627 of 1991 dated 16.12.2002 whereby the Labour Court has directed the petitioner to reinstate the employee without any backwages to his original post with continuity of service.

2. Mr. Gohil for the petitioner has contended that irrigation department is not an industry in view of the judgment of this Court in the case of S.C. THAKOR vs. STATE OF GUJARAT reported in 2000 (1) GLH 482 and the judgment of the Apex Court in the case of STATE OF GUJARAT & ORS vs. PRATAMSINGH NARSINH PARMAR reported in JT 2001 (3) SC 326. However, in view of the decision of the Full Bench of this Court in the case of GUJARAT FOREST PRODUCERS, GATHERERS AND FOREST WORKERS UNION vs. STATE OF GUJARAT reported in 2004 (2) GLH 302 the Irrigation Department is an "Industry". Therefore, that issue will not survive.

3. Apart from that, the employee has worked for more than 18 years and has completed 240 days in the last three years. The finding of the Labour Court is that there is a breach of section 25 (f) of the ID Act, and corollary to that the reinstatement was granted. In my view, the Labour Court has not committed an error. On the contrary, looking to the long service of 18 years, the action of the petitioner is very harsh. In my view, no interference is called for.

4. The petition is, therefore, dismissed. Rule is discharged. No order as to costs. The order of the Labour Court should be implemented within one month from receipt of this order.

mathew [K.S.JHAVERI, J.]